

CUMBERLAND FARMS # RI0956

SITE ACCESS AGREEMENT

This Site Access Agreement ("Agreement") is entered into by and between CUMBERLAND FARMS, INC. ("Grantor") and LOUREIRO ENGINEERING ASSOCIATES, on behalf of Emhart Industries Inc., Black and Decker Inc., USEPA, and RIDEM, (collectively "Grantee") to allow Grantee access to 2064 Smith St., North Providence, RI (the "Property") to perform certain environmental work in accordance with the terms and conditions of the Centredale Manor 2018 Remedial Design/Remedial Action Consent Decree ("Consent Decree") entered into by the Grantee and in accordance with the provisions of this Agreement.

In consideration of the mutual covenants herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged, Grantor and Grantee agree as follows:

1. Access and Work. Grantor hereby authorizes Grantee, together with its subcontractors, access to the Property to perform environmental investigation and remediation work as particularly described as follows (the "Work"):
  - a. Collect soil and/or sediment samples for those contaminants set forth in the Consent Decree (outside of any buildings on the Property); and
  - b. Conduct a land survey to document sampling locations and to record surface features.
2. Notice. Grantee agrees to notify Grantor at least five (5) working days in advance of the commencement of the Work. Grantor has the option to meet onsite to review sampling locations.
3. Grantor's Presence. Grantor or its representatives may be present for the Work and may collect split samples and conduct confirmatory soil and groundwater sampling.
4. Performance of Work. The Work shall be performed in a good and workmanlike manner and in conformity with industry standards. Grantee and its subcontractors in exercising the rights granted hereunder shall act reasonably and minimize any interference with Grantor's operations and, in any event not unreasonably interfere with Grantor's or Grantor's tenants' or invitees' access or use of the Property. As further clarification of and without limiting the foregoing, Grantee and its subcontractors agree to allow all times during the Work: (a) at least two of the gasoline dispenser pumps at the station to be accessible to Grantor's customers and invitees and the public; (b) Grantor's customers and invitees and the public full and free access to the building on the Property and to all driveways and entry ways from and to the street.
5. Sharing of Documents/Confidentiality.
  - (a) Grantee will provide Grantor with copies of correspondence, reports, data or other information related to the Work or generated pursuant to the Work.
  - (b) The obligations under this Section 5 shall survive the expiration or earlier termination of this Agreement.
6. Termination. The rights and privileges granted by this instrument, but not Grantee's obligations, shall cease upon the earlier to occur of:

- (a) three years after the Effective Date of this Agreement;
- (b) notice from Grantor pursuant to Section 14 below; or
- (c) Grantee's violation of the Consent Decree or any law applicable to the Work performed.

7. **Compliance with Laws.** In connection with its activities on the Property, including performance of the Work and the disposition of any wastes generated in connection therewith, Grantee shall comply, at its sole cost and expense, with all federal, state, and local laws, ordinances, orders, rules, regulations, and requirements ("Laws"). As an example of and without limiting the foregoing, Grantee will obtain, prior to its or its subcontractors entry on to the Property, all permits, licenses, certificates, or approvals required to comply with all Laws, including the determination of the location of all underground utilities.

8. **Notice of Subcontractor.** Prior to the start of the Work, Grantee shall notify Grantor of the name, address and contact of Grantee's subcontractors who will conduct work on the Property. If Grantee changes subcontractors during the term of this Agreement, Grantee shall provide Grantor advance written notice of such change and shall include the name, address and contact of such new subcontractors.

9. **Restoration.** At the conclusion of the Work, as soon as is practicable but in no event later than thirty (30) days after such conclusion of the Work, Grantee, at its sole cost and expense, will restore the Property, including Grantor's personal property, affected or impacted or damaged by the Work, to as close to its condition existing at the time the Work began as is reasonably possible. This Section 9 shall survive the termination of this Agreement.

10. **Omitted by Design.**

11. **Indemnity.**

- (a) "Claim(s)" are defined as claims, demands, causes of action, liabilities, costs, expenses, losses, damages, penalties, fines or other obligations of any kind or nature (including without limitation reasonable attorneys' fees, subcontractor fees and court costs) asserted or imposed against or incurred by any person (including without limitation Grantor, Grantee, subcontractors and their employees or any other third party).
- (b) Grantee shall indemnify, defend and hold harmless Grantor and its affiliates, directors, officers, shareholders, members, managers, agents and representatives ("Grantor Parties") from and against any Claims asserted against, or incurred or sustained by Grantor or Grantor Parties as they come due and any amounts paid in judgment or settlement, in any manner directly or indirectly arising out of or related to: (i) a violation of the Consent Decree by Grantee; (ii) a breach of this Agreement; and/or (iii) negligent performance of the Work by Grantee. Grantor shall fully cooperate with Grantee in the investigation and defense of such Claims.
- (c) This Section 11 shall survive the termination of this Agreement.

12. **Insurance.** Grantee and its subcontractors shall maintain the insurance coverage pursuant to the coverage limits of liability no less than those stated on the attached Exhibit A while performing the Work.

13. **Default.** Grantee shall be deemed to be in default hereunder if Grantee fails to promptly

comply with any material term or provision contained in this Agreement and fails to cure such breach within thirty (30) days after notification by Grantor. Unless Grantor receives evidence that such breach has been cured within such thirty (30) day period, Grantor may, at its election, immediately terminate this Agreement at any time after the expiration of the foregoing cure period by notifying Grantee of such election.

14. Lien. Grantee will permit no liens of any kind to be fixed upon or against the Property or subcontractor or any other of Grantee's contractors, subcontractors, or suppliers, and indemnify, protect, and save Grantor harmless from and against all damages incurred by Grantor, including attorneys' fees, resulting from such claims and liens.

15. Limitations of Access. The access rights granted herein by Grantor extend only to the specific Work set forth in this Agreement. Grantor's consent must be obtained for access to the Property for any other reason. Additional work by Grantee that is not specifically described in this Agreement (e.g. and by way of illustration only, well installation, additional soil borings, etc.) may be performed only upon prior written authorization by Grantor. Grantee must furnish Grantor 30-day notice of any additional work.

16. No Admission by Cumberland Farms. Nothing contained in this Agreement shall be construed as an admission regarding any responsibility, wrongdoing, liability, or damages by Cumberland Farms or Grantee. Cumberland Farms and Grantee reserve their rights to pursue any claims that it has or may have against any party, and nothing contained in this Agreement shall alter or in any way affect any rights Cumberland Farms or Grantee may have against any party or any defenses Cumberland Farms or Grantee may have against any claims by any party.

17. Notice Procedure. Unless otherwise provided herein, any notice required or permitted to be given hereunder by one party to the other shall be in writing and delivered by: hand delivery; commercial courier with fees pre-paid and proof of delivery; email with acknowledgement of receipt by a duly authorized representative; facsimile with verification of receipt; or certified mail, returned receipt requested. The effective date of notice will be the date received per the acknowledgements and verifications indicated above, except for certified mail, wherein notice will be deemed received upon the date of acceptance, rejection or failure to accept delivery after two (2) delivery attempts. Notwithstanding the foregoing, if any notice is received after 5:00 p.m. on a business or non-business day where the addressee is located, then the notice is deemed received at 9:00 a.m. on the next business day. The address of Cumberland Farms and Loureiro Engineering Associates for all notices hereunder shall be:

If to CFI:

Cumberland Farms, Inc. Environmental  
Affairs Department Attn: Christopher  
Johnson  
165 Flanders Road  
Westborough, Massachusetts 01581 Email:  
cjohnson@cumberlandfarms.com

If to Grantee:

Loureiro Engineering Associates, Inc.  
100 Northwest Drive  
Plainville, Connecticut 06062  
Email: jjloureiro@loureiro.com

18. Assignment/Delegation.

- (a) Grantee shall not assign any of its rights or delegate any of its duties under this Agreement, except with the express prior written consent of Grantor. All assignments of rights or delegations of duties are prohibited under this Section 19, whether they are voluntary or involuntary, by merger, consolidation, dissolution, change of control, operation of law or any other manner.
- (b) For purposes of this Section 18, a "merger" refers to any merger in which a party participates, regardless of whether it is the surviving or disappearing corporation.
- (c) Any purported assignment or delegation of performance in violation of this Section 19 is void

19. Enforceability. If any part of this Agreement is for any reason found to be unenforceable, all other portions nevertheless remain enforceable.

20. Waiver. The waiver of any breach or any term or condition of this Agreement does not waive any other breach of that term or condition or of any other term or condition or any subsequent breach of that or any other term or condition.

21. Applicable Law. The laws of Rhode Island, without giving effect to its choice of law principles, govern all matters arising out of or relating to this Agreement and all of the transactions it contemplates, including, without limitation its validity, interpretation, construction performance and enforcement.

22. Effective Date/Counterpart Originals. This Agreement, executed in duplicate originals, shall be effective on the date last written below (the "Effective Date").

23. Authority. Each person executing this Agreement represents that the party on whose behalf the person is executing this Agreement has duly authorized the execution of this Agreement and that such person is authorized to execute the Agreement on behalf of such party.

SIGNATURES ON FOLLOWING PAGE

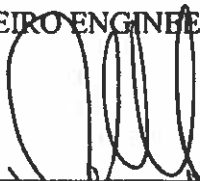
LOUREIRO ENGINEERING ASSOCIATES

By:

Date 4/11/19

Name:

Title:

  
JEFFREY S. LOUREIRO  
CEO


CUMBERLAND FARMS, INC.

By:

Date 4/12/19

Name:

Title:

  
Christopher Johnson  
SP. PM

## EXHIBIT A

### **INSURANCE REQUIREMENTS – ENVIRONMENTAL CONTRACTOR TIER 1**

In addition to purchasing and maintaining the insurance coverages below, Loureiro Engineering shall ensure that any sub-contractors engaged by Loureiro Engineering to fulfill the terms of this agreement shall also purchase and maintain insurance coverage and comply with all other indemnities, warranties and provisions of this insurance exhibit as follows: The insurance coverages are in all cases Primary for Contractor and receive no contribution from any other insurance maintained by, or on behalf of, or benefiting Cumberland. Any deductibles or retentions shall be the sole responsibility of Loureiro Engineering.

Loureiro Engineering agrees to waive and will require its insurers to waive, any rights of subrogation or recovery they may have against Cumberland and its insurers.

The insurance coverages must be written by carriers rated by A.M. Best as A-, VII or better.

The insurance certificate must show the complete insurance carrier name as it appears in the A.M. Best Guide, must be completed in its entirety, contain policy numbers, and be signed by the producer; binders are not acceptable.

The insurance certificate or separate endorsement must show 30 days' notice of cancellation or material change.

The insurance certificate must evidence Cumberland Farms, Inc. as Additional Insured on all liability policies and include copy of the additional insured endorsement.

For all insurance policies where an additional insured has been named, such insurance policies shall also contain a separation or severability of interest clause so that each insured shall be treated separately under the policy.

Failure to secure insurance coverage, or the failure to comply fully with any of the insurance provisions of this Contract, shall in no way act to relieve Loureiro Engineering from the obligations of this Agreement. Loureiro Engineering's indemnification obligations under this Agreement (express or implied) shall not be limited to the amount or scope of coverage provided by insurance under the terms hereof.

Cumberland expressly reserves the right to amend, append, or revise the types of coverage and/or limits required herein.

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### **COMMERCIAL GENERAL LIABILITY**

Must be an occurrence-based policy which covers all aspects of insured's operations including blanket contractual liability, products and completed operations coverage, bodily injury liability, broad form property damage, and coverage for explosion, collapse and/or underground damage with limits of coverage not less than the following:

\$1,000,000 each occurrence

\$2,000,000 annual aggregate

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### **CONTRACTOR'S POLLUTION LIABILITY**

Must be an occurrence-based policy covering all aspects of insured's operations whether on or off the premises, providing coverage for bodily injury, property damage, clean-up and/or remediation, including defense costs, and in accordance with applicable laws or regulations, with limits of coverage not less than the following:

\$10,000,000 each occurrence

\$10,000,000 annual aggregate

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### **BUSINESS AUTOMOBILE LIABILITY**

Must include coverage for **ANY AUTO** with limits of coverage not less than the following:

\$1,000,000 combined single limit

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### **EXCESS LIABILITY**

Must be excess coverage over the above policies and on a "per project basis," covering all aspects of insured's operations with limits of coverage not less than the following:

\$5,000,000 each occurrence

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### **WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY**

Workers' compensation insurance complying with the laws of the State or States having jurisdiction. Must include Stop Gap Coverage in all monopolistic states, coverage for Occupational Disease, for states where work is being conducted, operations are performed and where exposures may exist, in accordance with state and federal laws and regulations with limits of coverage not less than the following:

#### **WORKERS' COMPENSATION**

#### **EMPLOYERS' LIABILITY**

#### **Statutory Limits**

\$500,000 each accident

\$500,000 disease each employee

\$500,000 disease policy limit

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NOTE: Please mail original insurance information only to:

Cumberland Farms, Inc.  
Insurance Compliance- Environmental Contractor  
P.O. Box 100085-CF  
Duluth, GA 30096

8/31/16